

2012 PRELIMINARY END OF SESSION WRAP-UP

The 430th Session of the Maryland General Assembly came to a close at midnight on April 9, 2012. Balancing the budget in the face of an estimated \$1.1 billion deficit was the legislature's primary focus. Not surprisingly, preserving funding for mental health services was a chief concern for the Mental Health Association of Maryland (MHAMD). Despite a demanding budget battle, MHAMD was successful in advancing its public policy goals and working in coalition with its partners to mitigate damages caused by sweeping budget cuts.

NOTE: THE FOLLOWING BUDGET INFORMATION IS CONTINGENT ON PASSAGE OF A REVENUE PACKAGE DURING A SPECIAL SESSION OF THE GENERAL ASSEMBLY, EXPECTED IN THE NEAR FUTURE. FAILURE TO PASS A FUNDING MECHANISM WILL RESULT IN IMPLEMENTATION OF THE 'DOOMSDAY' BUDGET ON JULY 1, 2012, MEANING \$250 MILLION IN TOTAL CUTS AND \$9.6 MILLION IN ADDITIONAL CUTS TO THE PUBLIC MENTAL HEALTH SYSTEM.

BUDGET

MHAMD fought throughout the 90 day Session to preserve funding for public mental health services. Already serving 140,000 plus children and adults, Maryland's public mental health system (PMHS) projects a 6.3 percent increase in enrollment for the coming year. This equals more than 8,000 new citizens in need of services. Regardless of this fact, the PMHS was targeted for millions in additional cuts. Ultimately, although mental health shared in painful, across-the-board cuts to services, concerted and tireless advocacy on the part of the Mental Health Coalition successfully restored mental health funding via the Governor's supplemental budget appropriation and reduced proposed legislative cuts.

The action began in the second week of Session when the Governor introduced his FY 2013 budget proposal. While the proposal offered modest increases to mental health spending through new revenue from the 2011 alcohol tax (detailed below), those gains were more than offset by required cost containment measures totaling \$30 million. These included millions of dollars in reduced utilization of inpatient and residential treatment, required in the coming year without any allocation for necessary community-based diversion services, as well as cuts to psychiatric rehabilitation services for those not eligible for Medicaid. Additionally, by including a 0.88% inflationary adjustment for community mental health providers far below that received by other service providers, the FY 13 budget did little to address the ongoing challenges to staffing and program stability. Hundreds of emails and phone calls generated by Coalition member organizations inundated the offices of Governor O'Malley and legislative leadership in opposition to these cuts. As a result, the Governor's supplemental budget was introduced including \$10.5 million for mental health services (\$9 million after amendment). Though the rate increase for community providers went unchanged, millions of dollars will go to historically underfunded needs such as psych rehab and community crisis response services.

Mental health advocates fought an uphill battle in the legislature as well. Adding insult to injury, the Department of Legislative Services recommended additional cuts to the PMHS totaling nearly \$2.9

million. The bulk of these cuts were aimed at funding used to treat uninsured individuals in need of inpatient care. A strong and sustained grassroots lobbying effort in response to these cuts flooded legislative offices with calls and emails from consumers, family members, providers and advocates urging for the cuts to be restored. In the end, the budget conference committee reduced public mental health funding by an additional \$1.15 million, rejecting over half of the proposed cuts.

In sum, the budget success achieved through the concerted advocacy of the Coalition resulted in the following:

- \$9 million for mental health services through a supplemental budget appropriation:
 - \$5 million deficiency appropriation to provide funds for prior year claims on the public mental health system, addressing a portion of the \$27.5 million overall MHA rolling deficit
 - \$1.5 million (state general and federal funds) to restore funding to provide psychiatric rehabilitation payments to Johns Hopkins Bayview Medical Center
 - \$1.5 million to provide additional funding for psychiatric rehabilitation for the uninsured
 - \$1 million to provide funds for expansion of Community Crisis Response services
- \$5.25 million in additional funding as a result of 2011 alcohol tax legislation:
 - \$3 million to increase rates for mental health providers (0.88% inflationary adjustment)
 - \$1 million to the Mental Hygiene Administration (MHA) for transitional housing assistance targeted at individuals with very low incomes to help provide housing support
 - \$750,000 for the planning, design and implementation of a Chronic Behavioral Health Home initiative
 - \$500,000 to MHA to assist in securing identification for the homeless
- Reduction of \$2.9 million in proposed legislative cuts to \$1.15 million:
 - Reduction of proposed \$2.1 million cut to purchase of care beds to \$1 million
 - Rejection of accelerated closure of Assisted Living Units at Springfield and Spring Grove hospitals, which would have resulted in a loss of nearly \$650,000
 - No change in proposed \$150,000 in reduction of funds for MHA contractual employment

In a surprise move during the waning weeks of session, the developer seeking property at the Spring Grove Hospital campus successfully secured language requiring the Department of Health and Mental Hygiene to submit a report by January 1, 2013 detailing a plan for (1) the replacement of the existing inpatient capacity at Spring Grove; (2) a public-private partnership request for information document for the redevelopment of the campus; (3) a plan to utilize a portion of the property for recreational space; and (4) detail on how the Mental Hygiene Community-Based Services Fund can be utilized to accelerate the development of community capacity to reduce demand for State-operated inpatient capacity.

LEGISLATION

Mental Health and Disability

MHAMD supported **HB 53** (passed), which enhances Maryland's community college tuition exemption for disabled individuals by adding a waiver for continuing education instruction. By providing for the opportunity to ease in to continuing education, this bill ensures that more Marylanders receive a college education and the skills necessary to be successful in today's workforce. **SB 656** (passed) was amended to mirror the language of HB 53. Both bills passed unanimously.

SB 577 (failed) received unanimous support in the Senate, but was killed late in the Session by a House committee. This bill would have established the State Traumatic Brain Injury Trust Fund to assist in the provision of a variety of services to eligible individuals who have sustained traumatic brain injuries.

HB 1193/SB 314 (passed) requires Executive Branch agencies to obtain mental health support services for any employee of a State facility affected by a traumatic event at the facility that results in a death. The services must be provided within 48 hours. These bills received unanimous support.

The Qualifying Employees with Disabilities Tax Credit allows employers who hire a qualified individual with disabilities to claim a tax credit in the first two years of employment. MHAMD supported **SB 167** (passed) to extend the termination date of this tax credit, which has increased employment opportunities for individuals living with mental illnesses and other disabilities.

Individuals with mental illness may receive housing vouchers or Social Security payments due to their disability. Current law allows landlords and sellers to discriminate against prospective tenants based on the source of their income. MHAMD supported **HB 168/SB 277** (failed), which sought to prohibit such practices. Unfortunately, the bills were withdrawn after it became clear that supporters did not have enough votes in the Senate committee.

MHAMD opposed **HB70/SB 14** (passed) as introduced and offered testimony voicing concern over vague and discriminatory bill language creating a standard whereby an applicant for an apprenticeship or other license could be required to undergo and pay for a mental evaluation to determine competency. Originally, the bill stated that, "In return for the privilege to practice mortuary science or funeral direction in the State," an applicant or licensee would be deemed to have consented to a mental evaluation at the whim of the State Board. Prior to passage, MHAMD concerns were addressed and the bill was amended to, among other things, make the evaluation voluntary, thereby balancing the concerns of the Board with the civil rights of applicants and licensees.

Health Care and Insurance

HB 286/SB 484 (passed) was introduced at the request of MHAMD to increase transparency in the process by which Medicaid Managed Care Organizations (MCOs) report their Medical Loss Ratios (MLRs). MCOs are required to meet an 85% MLR. That means that for every dollar they spend, 85 cents must be spent on medical expenses as opposed to profit, administrative or other costs. Unfortunately, this threshold is not always met. This bill requires the Department of Health and Mental Hygiene (DHMH) to

publish on their website the MLR for each MCO, allowing Marylanders to review the information and hold accountable these entities charged with managing medical care for vulnerable individuals.

The 2012 Session saw the continuation of efforts to implement federal health care reform in Maryland. **HB 443** (passed) expands the operating structure of the Maryland Health Benefit Exchange. It also establishes a process for selecting the benchmark plan that will serve as the standard for the essential health benefits for plans offered in the small group and individual markets, both inside and outside the exchange. MHAMD supported this landmark legislation with amendments to ensure consumers, particularly those in need of behavioral health services, can access care after purchasing insurance. Specific amendments (1) require qualified health plans to demonstrate parity compliance to the insurance commissioner annually, and (2) add a mental health representative to the essential health benefit plan selection committee.

MHAMD also supported **SB 234** (passed), which establishes a process for the designation of Health Enterprise Zones (HEZs) to target State resources to reduce health disparities, improve health outcomes, and reduce health costs and hospital readmissions in specific areas of the State. Similarly, **HB 780** (withdrawn) was introduced to address related concerns by establishing a workgroup to recommend ways to strengthen cultural competency and health literacy training and assessments. MHAMD offered an amendment to include a mental health representative on the workgroup. The amendment was accepted and the bill was rolled into the House version of the HEZ bill, which passed as SB 234. Related to these initiatives, **HB 679** (passed) expands the role of the Cultural Linguistic Health Care Provider Competency Program to encompass all health care professionals and requires the Office of Minority Health and Health Disparities to collaborate with additional schools and professions in developing culturally competent courses.

As introduced, **HB 1149/SB 781** (passed) required insurers and Medicaid to cover and reimburse for health care services delivered via telemedicine. Given the shortage of mental health providers in rural areas, and the record growth in numbers of individuals in need of public mental health care, there is urgent need for creative strategies to assist in filling the service gap in rural communities. Unfortunately, Medicaid was exempted from the final bill due to a large cost estimate. MHAMD still supported the legislation, however, in hopes that this is but the first step in expanding the option of telemedicine to all Marylanders. The final bill requires a Medicaid fiscal impact analysis and a review of the appropriate use of telemedicine for mental health.

Prior authorization requirements are problematic in the delivery of mental health services, often resulting in delay and/or confusion. As such, MHAMD supported **HB 470/SB 540** (passed) to require the Maryland Health Care Commission (MHCC) to work with payors and providers to attain benchmarks for standardizing and automating the process for pre-authorization of health care services. In its testimony, MHAMD urged MHCC to remain cognizant of all parity requirements while working to meet the benchmarks.

HB 1029/SB 539 (withdrawn) was introduced to address the lengthy Medicaid eligibility process for individuals in need of long term care services. In many cases, it is upwards of several months before eligibility is determined, leaving service providers unpaid and individuals and their families living in

uncertainty. This bill would have required an applicant to be presumed eligible if a decision was not otherwise made within 60 days. A hefty fiscal note doomed the legislation.

Criminal Justice

As chair of the Mental Health and Criminal Justice Partnership (MHCJP), MHAMD supports all efforts to prevent recidivism and promote the successful reentry of ex-offenders. The 2012 Session saw a number of reentry initiatives introduced on behalf of the legislatively-created Task Force on Prisoner Reentry (HB637/2009), of which MHAMD was a participant. After 18 months of work, the Task Force recommended, and MHAMD supported, the following measures:

- **HB 650** (failed) – This legislation would have provided for a small reduction in sentence for individuals that achieve certain educational accomplishments while incarcerated. By offering incentives to individuals for continuing their education behind the wall, this bill would have ensured greater opportunity for those individuals upon release, thereby reducing recidivism and increasing public safety. Though the bill passed the House, it died in a Senate committee after a bruising floor battle on the bill below, which left little appetite for another reentry measure late in the Session.
- **HB 651/SB 720** (passed) – Many individuals accumulate insurmountable child support arrearages during their incarceration. Upon release, this debt often leads to wage garnishment and a suspended driver's license, further compounding the individual's already extensive barriers to reentry. In addition, the inability to secure employment in combination with a large child support debt may drive individuals to make poor choices in order to secure the necessary funds. This is a particular concern for ex-offenders with mental illness, as these individuals have an even higher rate of unemployment than the general population of returning inmates. HB 651 will help to alleviate this barrier by suspending child support orders upon incarceration for obligors sentenced to 18 or more months of imprisonment who do not have assets or income to make the payments. The custodial parent has a right to object to the suspension.
- **HB 652/SB 667** (failed) – This bill would have shielded nonviolent convictions from public view after a defined period of time, increasing opportunities for ex-offenders in search of stable employment.
- **HB 800/SB 671** (failed) – For the third straight year, MHAMD supported this legislation to "Ban the Box." The bill would have prohibited State government from inquiring into the criminal history of an applicant for employment until the applicant was selected for an interview, thereby giving individuals with criminal histories a chance to get further in the job application process and an opportunity to explain their circumstances to a prospective employer. There was hope that, with the support of the Task Force, the legislature would finally implement this important measure. Unfortunately, though the bill was voted favorably out of its Senate committee, it was killed by a House subcommittee.

Task Forces and Workgroups

HB 618 (passed) establishes the Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms. Worrying that people with a history of mental illness were being unfairly singled out for a curtailment of their Constitutional rights, MHAMD opposed the bill as introduced. However, the sponsor was willing to work with the advocacy community and addressed MHAMD concerns by altering the charge of the Task Force to allow, but not require, recommendations for changes to existing law. The amendments explicitly require the Task Force to take into account the civil rights of individuals with mental illness while conducting their review.

MHAMD supported **HB 1455/SB 1077** (passed) to continue the work of the Mortality and Quality Review Committee to prevent avoidable deaths and improve the quality of care in MHA and DDA facilities and programs. The introduction of this bill provided an opportunity to continue the 2006 conversation around consistency in the procedures and information used to investigate deaths at MHA and DDA programs, respectively. MHA Director Dr. Brian Hepburn has agreed to meet with mental health advocates during the interim to address the issue.